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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,162	07/30/2003	Patrick Schmitt	10191/3117	1902
26646	7590	01/25/2005	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			A, MINH D	
			ART UNIT	PAPER NUMBER
			2821	

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/632,162	SCHMITT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Minh D A	2821	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9-13 and 18 is/are rejected.
- 7) ☒ Claim(s) 5-8 and 14-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.



**TUYET VO**  
**PRIMARY EXAMINER**

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, and 9 are rejected under 35 U.S.C. 102(b) as being unpatentable by Breed et al (US 6,736,231).

Regarding claims 1 and 10, Breed discloses a vehicular motion detection system using radar comprising a detector for detecting at least infrared radiation (see col.4, lines 55-66) and a filter element adapted such that substantially only infrared radiation is detectable by the sensor element. See figures 1-16, col.12, lines 56-67 to col.30, lines 1-60.

Regarding claims 2 and 11, Breed discloses a device is for automatically switching lighting equipment for a motor vehicle. See figure 16, col.28, lines 65-67 to col.29, lines 1-52.

Regarding claims 3 and 12, Breed discloses wherein the sensor element emits a signal, and further comprising a control device (processor) including an element for switching the lighting equipment as a function of the signal. See figure 16.

Regarding claims 4, 13, Breed discloses wherein the filter element is attachable to a glass pane of the motor vehicle. See figures 1-16.

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Regarding claims 9 and 18, Breed discloses wherein the filter element is integrated into the sensor element. See figures 1-16.

***Allowable Subject Matter***

2. Claims 5-8 and 14-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art does not teach that, a rain sensor including a light-conducting element, the light-conducting element being substantially only transparent with respect to infrared radiation and being used as a filter element recited in dependent claims 5 and 14.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Williams (US 3, 870, 884) and Neilson et al (US 2002/0098592) are cited to show an infrared detector device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Minh A whose telephone number is (571) 272-1817. The examiner can normally be reached on M-F (5:30 –2:30 PM).

If attempts to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Don Wong, can be reached on (571) 272-1834. The fax phone numbers for

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the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and (703) 872-9319 for final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (571) 272-1553.

Examiner

Minh A

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1/23/05



**TUYET VO**  
**PRIMARY EXAMINER**